

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Weber State College)	File No. EB-09-DV-0043
Licensee of Radio Station KWCR-FM)	
)	
Facility ID # 71394)	NOV No. V201032800007
Ogden, Utah)	
)	

NOTICE OF VIOLATION

Released: January 4, 2010

By the District Director, Denver Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation ("Notice") issued pursuant to Section 1.89 of the Commission's Rules,¹ to Weber State College ("Weber"), licensee of broadcast radio station KWCR-FM in Ogden, Utah. This Notice may be combined with a further action, if further action is warranted.²

2. On September 21, 2009, agents of the Enforcement Bureau's Denver District Office inspected KWCR-FM, located at 1605 University Circle, in Ogden, Utah, and observed the following violations:

- a. 47 C.F.R. § 11.35(a): Emergency Alert System ("EAS") "Participants must determine the cause of any failure to receive the required tests or activations specified in Sections 11.61(a)(1) and (a)(2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in Sections 73.1820 and 73.1840 of this chapter for all broadcast streams . . . "

At the time of the inspection, the agents found that there were no entries in the station log indicating why Required Weekly Tests ("RWTs") and Required Monthly Test ("RMTs") had been sporadically missed for the first monitoring source, KSL (AM), and entirely missed for the second monitoring source, NOAA weather service, for over the three months prior to the inspection.

- b. 47 C.F.R. § 11.61(a)(1): "EAS Participants shall conduct tests at regular intervals . . . [including] Required Monthly Tests of the EAS header codes, Attention Signal, Test Script and End of Message code."

¹47 C.F.R. § 1.89.

²47 C.F.R. § 1.89(a).

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At the time of inspection, the agents found that the station had no record of RMT transmissions for the months of April, May, June, July and August of 2009.

- c. 47 C.F.R. § 11.61(a)(2): "EAS Participants shall conduct tests at regular intervals . . . [including] Required Weekly Tests of the EAS header codes, and End of Message code."

At the time of inspection, the agents found that the station had no record of RWT transmissions from June 1 to June 20, 2009; July 5 to July 11, 2009; and August 9 to August 15, 2009.

- d. 47 C.F.R. § 11.61(b): "Entries shall be made in EAS Participant records, as specified in Sections 11.35(a) and 11.54(b)(13)."

At the time of the inspection, the agents found that the licensee's EAS records did not indicate that the RMTs for the months of June, July and August 2009 were conducted. There were no notes recorded as to why the station did not receive the required weekly test or the required monthly tests from the first and second monitoring assignments, KSL(AM) and the NOAA weather service operating on the assigned frequency of 162.55 MHz, for June, July and August 2009. Further, there were no records of EAS equipment inspections and whether those inspections revealed any equipment malfunctions. Finally, there were no entries made in the EAS log concerning the EAS encoder/decoder unit having been out of service from August 17, 200, to the date of the inspection.

3. As the nation's emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission's Rules, we seek additional information concerning the violations and any remedial actions the station may have taken. Therefore, Weber must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission's Rules, we direct Weber to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Weber with personal knowledge of the representations provided in Weber's response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information

³47 U.S.C. § 403.

⁴47 C.F.R. § 1.89(c).

⁵Section 1.16 of the Commission's Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification,

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requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Denver District Office
215 South Wadsworth Boulevard, Suite 303
Lakewood, CO 80226

6. This Notice shall be sent to Weber State College at its address of record.

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Nikki P. Shears
District Director
Denver District Office
Western Region
Enforcement Bureau

verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.⁸ 47 C.F.R. § 1.16.

⁶18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

⁷P.L. 93-579, 5 U.S.C. § 552a(e)(3).